

JUN 1 2004



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application of: J. VOGEL *et al.*

Confirmation No.: 6000

Serial No.: 09/528,989

Art Unit: 1617

Filed: March 20, 2000

Examiner: Lauren WELLS

For: INJECTABLE AND SWELLABLE
MICROSPHERES FOR TISSUE
BULKING

Attorney Docket No: 9676-292

TERMINAL DISCLAIMER UNDER 37 C.F.R. § 1.321(c)

Commissioner for Patents
PO Box 1450
Mail Stop AF
Alexandria, Virginia 22313-1450

Sir:

BIOSPHERE MEDICAL, INC. is the assignee of the entire right, title and interest in and to the above-identified patent application by virtue of an assignment from Jean-Marie VOGEL and Egisto BOSCHETTI to BIOSPHERE MEDICAL, INC. that was recorded on December 6, 2000 at Reel 011335, Frame 0117 and an assignment from Richard THOMAS to BIOSPHERE MEDICAL, INC. that was recorded on August 11, 2003 at Reel 014372, Frame 0395.

BIOSPHERE MEDICAL, INC. hereby disclaims the terminal part of any patent granted on the above-identified application that would extend beyond the earlier of the expiration dates of U.S. Patent No. 6,436,424 and any U.S. patent that issues from Application No. 10/222,819, filed August 19, 2002; and hereby agrees that any patent granted on the above-identified application shall be enforceable only for and during such period that said patent is commonly owned with U.S. Patent No. 6,436,424 and U.S. patents that issue from Application No. 10/222,819.

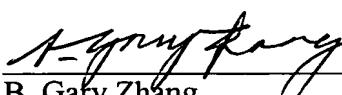
BIOSPHERE MEDICAL, INC. further agrees that this agreement is to run with any patent granted on the above-identified application and is to be binding upon the grantee, its successors, and assigns.

BIOSPHERE MEDICAL, INC. does not disclaim any terminal part of any patent granted on the above-identified application prior to the expiration date of the full statutory terms of U.S. Patent No. 6,436,424 and U.S. patents that issue from Application No. 10/222,819 in the event that U.S. Patent No. 6,436,424 or any U.S. patent that issues from Application No. 10/222,819 later: expires for failure to pay a maintenance fee, is held unenforceable, is found invalid, is statutorily disclaimed in whole or terminally disclaimed under 37 C.F.R. § 1.321(a) or (b), has all claims canceled by a reexamination certificate, or is otherwise terminated prior to the expiration of its full statutory term, except for the separation of legal title stated above.

This Terminal Disclaimer is submitted on behalf of Petitioner pursuant to 37 C.F.R. § 1.321(b)(1)(iv).

Respectfully submitted,

Date: May 26, 2004


B. Gary Zhang

(Reg. No. 47,331)

For: Anthony M. Insogna (Reg. No. 35,203)

JONES DAY
51 Louisiana Avenue, N.W.
Washington, D.C. 20001-2113
(202) 879-3939

Enclosures